IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 909/2006
(Mangla Ram Choudhary & Anr. Vs. State of Rajasthan)

Date of Order : 12/09/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. B.S.Rathore for the petitioners.
Mr. Ashok Upadhyay, public prosecutor.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioners seek quashing of FIR No. 244/06 Police Station, Kotwali, Pali for the offence under Section 447 IPC and Section 3 of the Prevention of Damage to Public Property Act.

I have heard learned counsel for the petitioners and public prosecutor. Carefully gone through the FIR and police investigation diary.

It is contended by learned counsel for the petitioners that after the acquisition there had not been any demarcation of the land and therefore, it cannot be said that the complainant was in possession for which trespass is alleged. The matter is at

the investigation stage. This question cannot be decided in the matter seeking quashing of FIR for the reason that it is matter of investigation and it is yet to be investigated by the police. At the initial stage of investigation, the power to investigate cannot be curtailed. Therefore, in my view, no case for quashing the FIR is made out.

The criminal misc. petition is, therefore, dismissed. Interim order dated 03.08.2006 stands vacated. However, it is open for the petitioners to raise the point as to whether the possession of the land in question has been taken over by the complainant or not at the appropriate stage.

(H.R.PANWAR),J.

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